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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

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10 JOSE PEREZ,
11 Plaintiff,
12 v.
13 CLARK COUNTY SHERIFF, et al.,
14 Defendants.
15

2:11-cv-220-PMP-NJK

16 **REPORT & RECOMMENDATION**
17 **OF UNITED STATES**
18 **MAGISTRATE JUDGE**

19 This matter is before the Court on the failure of Plaintiff, Jose Perez, to comply with
20 Orders of the Court (#4 and #7).

21 **BACKGROUND**

22 The Court having reviewed this matter hereby makes the following findings:

23 1. Plaintiff, Jose Perez, filed this §1983 action against Clark County Sheriff and
24 various other defendants on February 9, 2011. *See*, Complaint, attached as Exhibit
25 1 to Motion to Proceed in Forma Pauperis (#1).

26 2. On January 9, 2012, the Court entered an Order (#4) scheduling a status hearing in
27 this case for January 30, 2012. The Order (#4) was mailed to the Plaintiff at the
High Desert Correctional Center on or before January 10, 2012. *See*, Certified
Mail Receipt (#6).

28 4. On January 30, 2012, the Plaintiff's address was updated to the Southern Desert
Correctional Center pursuant to the Order to Show Cause (#4).

1 5. On October 24, 2012, the Court issued an Order to Show Cause (#7) for
2 Plaintiff's failure to take action in this case for more than one year. The Order
3 (#7) was mailed to the Plaintiff at the address the Plaintiff provided to the Court
4 by United States Postal Service Certified Mail on or before October 25, 2012.
5 *See, Certified Mail Receipt (#8).*

6 6. The Order (#7) was returned as undeliverable. *See, Returned Mail (#10).*

7 7. On January 16, 2013, the Court issued an Order to Show Cause (#12) for
8 Plaintiff's failure to update his address with the Court. The Order (#10) was
9 mailed to the Plaintiff at the address the Plaintiff provided to the Court by United
10 States Postal Service Certified Mail on or before January 17, 2013. *See, Certified*
11 *Mail Receipt (#13).*

12 6. The Order (#13) was returned as undeliverable. *See, Returned Mail (#16).*

13 6. The Plaintiff did not appear for the Show Cause hearing scheduled for February 1,
14 2013. *See, Min. Of Proceedings (#17).*

15 Based on the foregoing and good cause appearing therefore,

16 **RECOMMENDATION**

17 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be
18 **DISMISSED WITH PREJUDICE.**

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NOTICE

2 Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and
3 Recommendation must be in writing and filed with the Clerk of the Court within (14) days after
4 service of this Notice. The Supreme Court has held that the courts of appeal may determine that
5 an appeal has been waived due to the failure to file objections within the specified time. *Thomas*
6 *v. Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). This Circuit has also held
7 that (1) failure to file objections within the specified time and (2) failure to properly address and
8 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal
9 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th
10 Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 4th day of February, 2013.

NANCY J. KOPPE
United States Magistrate Judge